CALFED
BAY-DELTA
PROGRAM

Draft
CALFED Environmental Water Program
Briefing Paper No. 4

Environmental Water Program Issues and Questions

Prepared for:

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January 2001

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This document should be cited as:

Jones & Stokes. 2001. Environmental Water Program briefing paper no. 4: Environmental Water Program issues and questions. Draft. January. (J&S 01-024.) Sacramento, CA. Prepared for the CALFED Bay-Delta Program, Environmental Water Program Steering Committee, Sacramento, CA.

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INTRODUCTION

Developing and implementing the Environmental Water Program (EWP) will be challenging technically, institutionally, operationally, and politically. Despite these challenges, implementing the EWP is critical to the success of the CALFED Bay-Delta Program (CALFED) and the successful implementation of the CVPIA.

Public participation in developing the framework for the EWP will be important because of the complexity and controversial nature of the program. The EWP Steering Committee was formed as a first step in public involvement; its members represent a wide spectrum of interests including agriculture water users, urban water users, environmental interest groups, and other public interest organizations. The Steering Committee was formed to provide the advice and guidance needed to implement the EWP successfully.

A primary role of the EWP Steering Committee will be to identify and recommend solutions to issues and, in the process, develop a set of operating principles to guide the development and implementation of the EWP. This briefing paper provides a starting point for that work, listing many of the critical issues that need to be resolved in developing both the framework and the operating principles.

OVERVIEW OF ENVIRONMENTAL WATER PROGRAM IMPLEMENTATION STRATEGY

The EWP will take several years to fully implement. Figure 1 is a flow chart that depicts a preliminary strategy for developing the EWP in several phases. The strategy begins with developing the EWP framework. This effort will include

- developing a set of principles to guide implementation of the EWP;
- establishing policy to identify, analyze, and mitigate impacts; and
- creating a plan to coordinate the EWP with the Environmental Water Account (EWA), the program being developed by the Governor's Advisory Drought Planning Panel (GADPP), and the Central Valley Project Improvement Act's (CVPIA's) Water Acquisition Program (WAP).

Concurrently, CALFED will begin to plan the initial implementation of projects using acquisitions in demonstration watersheds. These watershed projects will be put into effect slowly to test implementation methods, improve scientific knowledge, and help build the trust of potential sellers of water. Hydrologic and ecosystem models will be developed to enhance understanding of the costs and impacts of various acquisitions.

The results of these initial efforts will help the EWP Steering Committee evaluate the program's effectiveness and refine the EWP framework and modeling. Methods and criteria for assessing the program's effectiveness will need to be established. The EWP will be monitored and improved continuously to ensure that ecosystem benefits are being attained and that water supplies are managed prudently to achieve other important benefits.

In later phases of EWP development, a programmatic environmental document will be prepared that discloses the impacts and benefits of full implementation of the EWP. After completion of required environmental documentation, the EWP would continue to be implemented using a science-based adaptive management approach.

ENVIRONMENTAL WATER PROGRAM ISSUES

Among the first actions of the EWP Steering Committee will be to refine the list of issues and questions in this briefing paper (and the stakeholder concerns identified in Briefing Paper No. 3), prioritize the issues, and recommend ways to resolve the most important issues and concerns. Following is a preliminary list of issues and questions that need to be resolved in preparing the EWP framework. Issues related to prioritizing acquisitions will remain with CALFED, the U.S. Fish and Wildlife Service, and the U.S. Bureau of Reclamation. It is not complete, but it does provide the EWP Steering Committee a basis for discussion. The issues and questions are grouped into five categories:

- framework and structure,
- coordination with other water management efforts,
- technical issues,
- monitoring, and
- environmental documentation.

Framework and Structure

- What types of acquisitions should the EWP consider (e.g., acquiring or leasing water rights, influencing the timing of water transfers, acquiring or leasing water storage rights)?

- How will these various acquisition types be prioritized?

- How should water acquisitions of various durations (short-term, medium-term, long-term) be prioritized?

- Will water rights be acquired for all year types or only for specific year types?

- Which entity or entities will hold the water rights acquired by the EWP?

- Which entity or entities will control the use of the water, and what process should be put in place to decide?

- How can and should the general public participate in development of the EWP framework?

- When the program is ready to acquire water, what process should be used to solicit offers to sell water? Should it be an open, public process, or should Steering Committee members approach interested parties individually?

- How can water be made available for multiple environmental uses?

- Once environmental water has been used for its intended purpose, can it be available for other uses?

- What assurances can be developed that water transferred to the EWP will not later be claimed under the federal and California Endangered Species Acts?

- What assurances can be developed to prevent successful acquisitions from leading to more stringent take limits or restrictions on land use or access?

- What criteria will be used to decide on the acquisitions to pursue?

- Who will make acquisition decisions?

- How will the interim and long-term governance plans for CALFED affect the EWP?

- How will the criteria be used in selecting particular acquisitions (i.e., will a numerical rating process or a qualitative ranking process be used)?

Coordination with Other Water Management Efforts

- To what extent will the EWP and WAP be integrated or coordinated?

- What criteria will be used to develop a cost-sharing formula for joint purchases by CALFED and the U.S. Bureau of Reclamation?

- How will water jointly purchased by the EWP and the WAP be owned and controlled?

- How will the EWP be coordinated with local water management (e.g., local groundwater management programs)?

- How will planning for and operation of EWP be coordinated with the EWA?
- How will the EWP be coordinated with the program being developed by the GADPP?
- How will the EWP be coordinated with the CALFED Water Transfer Program?

Technical and Legal Issues

- What should be the specific ecosystem objectives of the EWP and how can they be achieved?
- If the program is implemented initially using pilot projects, how many streams should be chosen and what criteria should be used to select them?
- What methodology will be used to determine the baseline or existing conditions for measuring project effects?
- Will the delay caused by using pilot or demonstration projects in the initial stages of the EWP reduce the availability of other water for acquisition? A related question is, "How should the EWP address opportunities for environmental water acquisitions that occur outside the initial pilot or demonstration watersheds?"
- How can the EWP help achieve water supply reliability and stability for farmers and other water users?
- What actions or measures can be developed or instituted to protect sellers who would like to participate in the program from further regulatory actions?
- How will the use of an adaptive management approach to this program be reconciled with the acquisition of long-term water rights?
- How will adaptive management be used to guide this program?
- How can the process for obtaining water acquisitions be streamlined?
- How can water available for transfer be defined ("real" vs. "paper" water)?
- What are the water rights implications of mixing groundwater and surface water?
- How should the risks associated with water acquisitions be equally distributed between the environment and water users?

- Should acquisitions be limited to rivers and streams identified for increased flows in the Ecosystem Restoration Program Plan (ERPP)?

- How will use of the EWP water be integrated into systemwide planning?

Monitoring

- What monitoring protocols can be built into acquisition agreements to determine whether the acquired water is reaching its destination and whether the acquired water adequately met the purposes for its purchase?

- How can biological success be defined, and what monitoring programs can be established to measure this success?

- What type of monitoring can be done to ensure that EWP water acquisitions and transfers do not adversely affect other water users?

- How will scientific review be built into the EWP, and should the Interim Science Board be involved with planning projects and developing the EWP framework?

- If mitigation measures are implemented, how will they be monitored? Who will perform the monitoring?

Environmental Documentation

- Who will be the lead agencies for the programmatic environmental impact report/environmental impact study? (Although lead agencies have been tentatively identified, they need to be confirmed.)

- Can the EWP be structured to avoid or minimize the types of impacts (on groundwater, the economy, agriculture, and farm workers) likely to generate opposition?

- What mitigation strategies can be developed in advance to address unavoidable impacts?

- Should CALFED use a tiered approach to environmental documentation, analyzing a few pilot streams in detail and future purchases at a programmatic level?

- Should CALFED prepare an environmental document before identifying the water to be purchased and define program details later?

- Should CALFED prepare one program-level document followed by project-specific documents for individual purchases?